

STATE OF INDIANA)
)
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 13036-AD14-0514-019

IN THE MATTER OF:)
)
Insurance Producer License)
Application of:)
)
Bobbie J. Rowe)
602 S. Heaton Street)
Knox, Indiana 46534)
)
Applicant)

FILED

JAN 16 2015

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On November 26, 2014, the Administrative Law Judge, Amy L. Beard, filed her Findings of Fact, Conclusions of Law and Recommended Order in the above-captioned matter.

1. The Department served Findings of Fact, Conclusions of law, and Recommended Order and Notice of Filing Recommended Order on Applicant by mailing the same to her home address of record.

2. The Department has complied with the notice requirements of Ind. Code §4-21.5-3-17.

3. Neither party has filed an objection with the Commissioner regarding the Administrative Law Judge's Recommended Order, and more than eighteen (18) days have elapsed.

Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

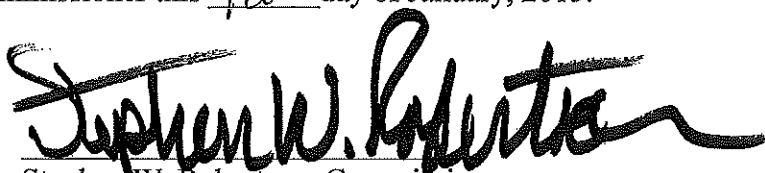
IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. The Preliminary Administrative Order and Notice of License Denial issued by the Commissioner on May 20, 2014 is AFFIRMED.

2. The Applicant's request for an insurance producer license is DENIED.

Under Ind. Code §4-21.5-5-5, Applicant has the right to appeal this Final Order by filing a petition for Judicial review in the appropriate court within thirty (30) days.

ALL OF WHICH IS ORDERED by the Commissioner this 11th day of January, 2015.



Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Bobbie J. Rowe
602 S. Heaton St.
Knox, IN 46534

Joshua Harrison
Indiana Department of Insurance
Enforcement Division
311 West Washington Street, Suite 103
Indianapolis, IN 46204-2787

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 13036-AD14-0514-019

IN THE MATTER OF:)
)
Bobbie J. Rowe,)
Applicant)
)
602 S. Heaton Street)
Knox, Indiana 46534)
)
Type of Action: Enforcement)
)
Application No.: 420945)

FILED

AUG 14 2014

STATE OF INDIANA
DEPT. OF INSURANCE

**PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED
ORDER**

The Enforcement Division of the Indiana Department of Insurance (the "Department"), by counsel, Michael F. Mullen, having participated in the matter of Applicant Bobbie J. Rowe ("Applicant"), which came to be heard on July 16, 2014, at approximately 1:34 P.M. at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana 46202, now submits its Proposed Findings of Fact, Conclusions of Law and Recommended Order, pursuant to Ind. Code § 4-21.5-3-17, as follows:

FINDINGS OF FACT

1. Applicant, an Indiana resident, filed an application to act as a resident insurance producer on May 1, 2014. (Exhibit A at p. 1).
2. On May 20, 2014, the Commissioner of the Indiana Department of Insurance ("Commissioner") issued a Preliminary Administrative Order and Notice of License Denial in this matter (the "Denial Order").

3. Per the Denial Order, Applicant's request for licensure was denied because she had not fully met the requirements of licensure stated in Indiana Code § 27-1-15.6-12(b). (Denial Order at p. 1). Specifically, per the Denial Order, Applicant was convicted of the three (3) felonies in 2006:
 - a. Two (2) convictions of Operating a Vehicle with a Controlled Substance or Its Metabolite in a Person's Blood Causing Death of Another Person, a Class B Felony; and
 - b. One (1) conviction of Obstruction of Justice. (Denial Order at p. 1).
4. Also on May 20, 2014, the Denial Order was mailed to Applicant via certified mail number 9214 8901 0661 5400 0032 7691 79. (Denial Order at p. 2).
5. The Denial Order afforded Applicant a sixty-three (63) day period to make a written demand for a hearing to review the Commissioner's decision. (Denial Order at p. 2).
6. Applicant made a timely demand for such a hearing. (Ex. D).
7. On June 19, 2014, a Notice of Hearing was mailed to Applicant via certified mail number 9214 8907 0661 5400 0034 5141 11. (Notice of Hearing).
8. Said Notice of Hearing was delivered to Applicant on June 23, 2014. (Ex. E).
9. Said hearing was held on July 16, 2014. (July 16, 2014 Evidentiary Hearing Transcript at p. 5).
10. On her May 1, 2014 application, Applicant disclosed that she has been convicted of at least one felony and provided documentation to support that disclosure. (Ex. A at p. 2 and Ex. B).
11. Applicant's supporting documentation includes a May 31, 2006 Sentencing Order issued under cause number 75C01-0504-FB-010 in the Starke County Circuit Court. (Ex. B at p. 2).

12. Said Sentencing Order reaffirms jury verdicts and entered judgments of conviction against Applicant for the following:

- a. "Count I: Operating A Vehicle with A Controlled Substance or Its Metabolite in A Person's Blood Causing Death of Another Person, a Class B Felony." (Ex. B at pp. 2—3).
- b. "Count II: Operating A Vehicle With A Controlled Substance or Its Metabolite in A Person's Blood Causing Death of Another Person, a Class B Felony." (Ex. B at p. 3).
- c. "Count V: Obstruction of Justice, a Class D Felony." (Ex. B at p. 3).

13. The Sentencing Order states the following aggravating circumstances:

- a. "Both victims of the two offenses were less than twelve (12) years of age at the time [Applicant] committed the offense." (Ex. B at p. 3).
- b. "[Applicant] was a person in a position having the care, custody or control of the victims of the offense." (Ex. B at p. 3).
- c. "[Applicant's] sworn testimony regarding how the accident happened was not credible nor was her sworn testimony regarding the switching of urine at the hospital laboratory." (Id.).
- d. "[Applicant] failed to appreciate the gravity of her reckless conduct and depreciated the deaths of the children and serious injury to her own daughter while [Applicant] plotted and schemed to cover her own illegal conduct." (Id.).

14. The Sentencing Order also notes the following mitigating factors:

- a. "[Applicant] did not contemplate that she would cause serious harm to another person." (Id.).
- b. "[Applicant] has led a law abiding life prior to the commission of the crime." (Id.).

- c. “[Applicant] is remorseful.” (Id.).
15. Per the Sentencing Order, after considering these and other factors, the Court sentenced Applicant to twenty-one and one-half (21 ½) years in the Indiana Department of Corrections, with six (6) years suspended. (Ex. B at p. 4).
 16. Kim Green testified at the July 16, 2014 hearing. (Tr. at p. 44). Mrs. Green testified that she is employed as a Junior Investigator in the Enforcement Division of the Indiana Department of Insurance and further testified that her duties include performing background checks on certain applicants. (Tr. at p. 45).
 17. Mrs. Green testified that she performed such an investigation on Applicant because she disclosed felony convictions on her application. (Tr. at p. 46—47).
 18. Mrs. Green testified that she contacted the Starke Circuit Court and requested records pertaining to Applicant’s convictions. (Tr. at p. 59; Ex. F).
 19. Mrs. Green received a response to her request on May 15, 2014. (Ex. G). Included in that response is an Affidavit of Probable Cause. (Ex. G at p. 16).
 20. The Affidavit of Probable Cause states that, on January 23, 2005, three (3) children were pulled in sleds by an ATV operated by Applicant. (Ex. G at p. 16). The Affidavit of Probable Cause further states that the ATV was involved in a collision with another vehicle resulting in the deaths of two (2) children and serious injury to the other. (Ex. G at pp. 16—17).
 21. The Affidavit of Probable Cause also states that because Applicant feared her urine and blood samples would test positive for marijuana, she arranged for these samples to be swapped with “clean” samples. (Ex. G at pp. 19—21).

22. Mrs. Green testified that her investigation revealed that the three (3) convictions Applicant disclosed on her application and supporting documentation contained the same information found in the Affidavit of Probable Cause and Sentencing Order.
23. Mrs. Green testified that said felony convictions served as the reason for Applicant's license denial. (Tr. at p. 53—54; Ex. C; the Denial Order).

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over both the subject matter and the parties to this action.
2. This hearing was held in compliance with the Indiana Administrative Orders and Procedures Act, codified at Ind. Code § 4-21.5 *et seq.*
3. Applicant received notice of both the Denial Order and Notice of Hearing in compliance with Ind. Code § 4-21.5-3-1.
4. Pursuant to Ind. Code § 27-1-15.6-12(d), an applicant must, within sixty-three (63) days after receiving notice of a Denial Order, file a written petition with the Commissioner to qualify for review.
5. Applicant timely made such a written demand for a hearing.
6. Pursuant to Ind. Code § 4-21.5-3-14(c), the person requesting an agency take action has the burden of persuasion and the burden of going forward with the proof of the request.
7. Pursuant to Ind. Code § 4-21.5-3-14(d), the proceedings before an administrative law judge are *de novo*.
8. Thus, Applicant has the burden of proof in demonstrating that Applicant should be granted a producer license.
9. Pursuant to Ind. Code § 27-1-15.6-6, before approving an Indiana resident's application for licensure, the Commissioner **must** find that the applicant has not committed any act that is a

ground for denial, suspension, or revocation under Ind. Code § 27-1-15.6-12 (emphasis added).

10. The grounds for denial, suspension, or revocation are stated in Ind. Code § 27-1-15.6-12(b).
11. Pursuant to Ind. Code § 27-1-15.6-12(b)(6), the Commissioner may refuse to issue or renew an insurance producer license if that person has been convicted of a felony.
12. Applicant was convicted of two (2) Class B felonies for Operating a Vehicle with a Controlled Substance or Its Metabolite in a Person's Blood Causing Death of Another Person and one (1) Class D felony for Obstruction of Justice on May 31, 2006. Each felony conviction was entered under the same cause number, 75C01-0504-FB-010.
13. Each felony conviction is a separate and distinct ground for action under Ind. Code § 27-1-15.6-12(b)(6).
14. Thus, pursuant to Ind. Code § 27-1-15.6-12(b)(6), there are three (3) grounds for action against Applicant.
15. Applicant has failed to satisfy the requirements of licensure as stated in Ind. Code § 27-1-15.6-6(b)(2).
16. Based on the evidence heard at the July 16, 2014 hearing, Applicant has not satisfied her burden.
17. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

RECOMMENDED ORDER

With the Findings of Fact and the Conclusions of Law as stated, Administrative Law Judge Amy L. Beard now recommends to the Commissioner the following:

1. The May 20, 2014 Preliminary Administrative Order and Notice of License Denial refusing to issue Applicant an insurance producer license be given full effect.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this _____ day of _____, 2014.

Amy L. Beard,
Administrative Law Judge

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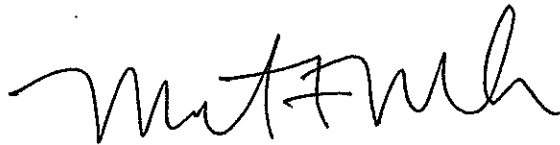
Bobbie J. Rowe
602 S. Heaton Street
Knox, Indiana 46534

Michael F. Mullen, Esq.
INDIANA DEPARTMENT OF INSURANCE
311 West Washington Street, Suite 103
Indianapolis, Indiana 46240

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served upon the following Respondent by United States first class mail, postage prepaid, this 14th day of AUGUST, 2014.

Bobbie J. Rowe
602 S. Heaton Street
Knox, Indiana 46534



Michael F. Mullen

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

Cause No.: 13036-AD14-0514-019

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INSURANCE PRODUCER LICENSE)
APPLICATION OF:)
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Bobbie J. Rowe,)
Applicant.)
602 S. Heaton Street)
Knox, IN 46534)

FILED

MAY 20 2014

STATE OF INDIANA
DEPT. OF INSURANCE

PRELIMINARY ADMINISTRATIVE ORDER
AND NOTICE OF LICENSE DENIAL

The Indiana Department of Insurance, pursuant to the Indiana Administrative Act, Indiana Code § 4-21.5-1 et seq. and Indiana Code § 27-1-15.6-12, hereby gives notice to Bobbie J. Rowe (“Applicant”) of the following Administrative Order:

1. Applicant filed an application for a resident property and casualty license with the Commissioner on May 1, 2014. Following a review of materials submitted by Applicant in support of his application, the Commissioner of the Indiana Department of Insurance, (“Commissioner”), being fully advised, now hereby notifies Applicant that he has not fully met the requirements of licensure as stated by Indiana Code § 27-1-15.6-12(b). Specifically, Applicant was convicted of the following felonies in 2006: (1) Operating A Vehicle With A Controlled Substance of Its Metabolite In A Person’s Blood Causing Death of Another Person, a Class B Felony;(2) Operating A Vehicle With A Controlled Substance of Its Metabolite In A Person’s Blood Causing Death of Another Person, a Class B Felony, ; and (3) Obstruction of Justice, a Class D Felony.

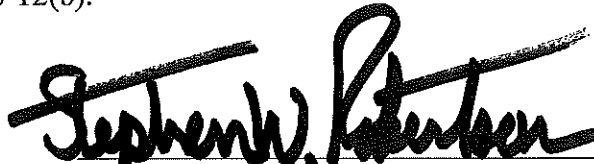
2. Indiana Code § 27-1-15.6-12(d) provides that:

[i]f the commissioner refuses to renew a license or denies an application for a license; the commissioner shall notify the applicant or licensee and advise the applicant or licensee, in a writing sent through regular first class mail, of the reason for the denial of the applicant's application or the non renewal of the licensee's license. The applicant or licensee may, not more than sixty-three (63) days after notice of denial of the applicant's application or non renewal of the licensee's license is mailed, make written demand to the commissioner for a hearing before the commissioner to determine the reasonableness of the commissioner's action. The hearing shall be held not more than thirty (30) days after the applicant or licensee makes the written demand, and shall be conducted under Indiana Code §4-21.5.

IT IS THEREFORE ORDERED that the Applicant's request for licensure is hereby DENIED pursuant to Indiana Code §27-1-15.6-12(b).

5-20-14

Date Signed



Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Distribution:

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Indiana Department of Insurance
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CERTIFIED MAIL RECEIPT: 9214 8901 0661 5400 0032 7691 79